

The Constitution Revision Commission
COMMITTEE MEETING EXPANDED AGENDA

EXECUTIVE
Commissioner Jordan, Chair
Commissioner Sprowls, Vice Chair

MEETING DATE: Tuesday, November 28, 2017
TIME: 9:00 a.m.—12:00 noon
PLACE: 401 Senate Office Building, Tallahassee, Florida

MEMBERS: Commissioner Jordan, Chair; Commissioner Sprowls, Vice Chair; Commissioners Bondi, Diaz, Gaetz, Keiser, Nocco, Stewart, and Thurlow-Lippisch

TAB	PROPOSAL NO. and INTRODUCER	PROPOSAL DESCRIPTION and COMMITTEE ACTIONS	COMMITTEE ACTION
1	P 9 Timmann	EXECUTIVE, Department of Veterans' Affairs; Section 11 of Article IV of the State Constitution to require, rather than authorize, the Legislature to provide for the Department of Veterans' Affairs and prescribe its duties by general law; to specify that the head of the department is the Governor and Cabinet; and to require that the Governor and Cabinet appoint an executive director of the department. EX 11/28/2017 Fav/CS	Fav/CS Yeas 6 Nays 0
2	P 48 Thurlow-Lippisch	EXECUTIVE, Fish and wildlife conservation commission; Section 9 of Article IV of the State Constitution to provide that the Fish and Wildlife Conservation Commission shall exercise the regulatory and executive powers of the state with respect to habitats, including wildlife corridors. EX 11/28/2017 Not Considered GP	Not Considered
3	P 68 Lee	EXECUTIVE, Cabinet; Section 4 of Article IV of the State Constitution to revise the duties and responsibilities of the Chief Financial Officer. EX 11/28/2017 Unfavorable FT	Unfavorable Yeas 3 Nays 3

By Commissioner Timmann

timmannc-00015-17

20179__

1 A proposal to amend

2 Section 11 of Article IV of the State Constitution to
3 require, rather than authorize, the Legislature to
4 provide for the Department of Veterans' Affairs and
5 prescribe its duties by general law; to specify that
6 the head of the department is the Governor and
7 Cabinet; and to require that the Governor and Cabinet
8 appoint an executive director of the department.
9

10 Be It Proposed by the Constitution Revision Commission of
11 Florida:

12
13 Section 11 of Article IV of the State Constitution is
14 amended to read:

15 ARTICLE IV

16 EXECUTIVE

17 SECTION 11. Department of Veterans' Veterans Affairs.—The
18 legislature, by general law, shall provide for a ~~may provide for~~
19 ~~the establishment of the Department of Veterans' Veterans~~
20 Affairs and prescribe its duties. The department shall be in the
21 executive branch and the head of the department is the governor
22 and cabinet who shall appoint an executive director.



618646

CRC ACTION

Commissioner .
Comm: FAV .
11/30/2017 .
. .
. .

The Committee on Executive (Keiser) recommended the following:

CRC Amendment (with title amendment)

Delete lines 20 - 22
and insert:
Affairs and prescribe its duties. The head of the
department is the governor and cabinet.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 5 - 8



618646

11 and insert:

12 prescribe its duties by general law; and to specify
13 that the head of the department is the Governor and
14 Cabinet.

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

11/28/2017

Meeting Date

9

Proposal Number (if applicable)

*Topic Dept. of Veterans Affairs

Amendment Barcode (if applicable)

*Name Charles Faircloth, General Counsel

Address 400 S. Monroe St, The Capitol, Suite 2105

Phone 850-487-1533

Street
Tallahassee Florida 32399-001
City State Zip

Email FairclothC@fdva.state.fl.us

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Florida Dept. of Veterans Affairs

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

11/28/17

Meeting Date

9

Proposal Number (if applicable)

*Topic DEPARTMENT OF VETERAN'S AFFAIRS

Amendment Barcode (if applicable)

*Name ROY L. CLARK

Address 3519 LEIGHTON HALL CT

Phone 850-497-1533

Street

TALLAHASSEE FL 32309

Email CLARKR@FDVA.STATE.FL.US

City

State

Zip

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? FLORIDA DEPARTMENT OF VETERAN'S AFFAIRS

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

11/25/2017

Meeting Date

9

Proposal Number (if applicable)

*Topic FLORIDA DEPARTMENT OF VETERAN AFFAIRS

Amendment Barcode (if applicable)

*Name Stephen Marchbanks

Address 1331 Kings Drive
Street

Phone 850 212-5968

City

State

Zip

Email smarchbanks@comcast.net

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who?

FDVA

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

**CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD**

(Deliver completed form to Commission staff)

28 Nov 17
Meeting Date

9
Proposal Number (if applicable)

*Topic FDVA
*Name Ned Hill Jr
Address 5253 Maddy Rd.
Street
Tallahassee FL 32303
City State Zip

Amendment Barcode (if applicable)

Phone 850 562-6235
Email _____

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? FDVA

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

28 NOV 15
Meeting Date

9
Proposal Number (if applicable)

*Topic FLORIDA DEPARTMENT OF VETERANS AFFAIRS

Amendment Barcode (if applicable)

*Name COMMANDER DENNIS BAKER

Address 3260 RUS O'S LANTANA DRIVE
Street

Phone 545-6668

TALLAHASSEE, FL. 32312
City State Zip

Email BAKERD@FDVA.STATE.FL.US

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? DEPARTMENT OF VETERANS AFFAIRS

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

28 Nov 07

Meeting Date

9

Proposal Number (if applicable)

*Topic Florida Dept Veterans Affairs

Amendment Barcode (if applicable)

*Name Mike Ford

Address 3053 Killbuck CT

Phone _____

Street

Tallahassee FL 32317

Email MWF1946@9mail

City

State

Zip

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? FDVA

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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***Required**

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

28 NOV 17

Meeting Date

9

Proposal Number (if applicable)

*Topic FLORIDA DEPT VETERANS AFFAIRS

Amendment Barcode (if applicable)

*Name COMMANDER RICHARD HUNT

Address 10131 S PAWMING TRAIL

Phone 407 579 6190

FCRAC CITY FLORIDA 34436

Email OBAYCESAN@ATT.NET

City State Zip

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? DEPARTMENT OF VET AFFAIRS

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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*Required

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD
(Deliver completed form to Commission staff)



28 Nov 17

Meeting Date

Proposal Number (if applicable)

*Topic

FL Dept of Vet AFFAIRS

Amendment Barcode (if applicable)

*Name

ADJ J. B. HASKINS

Address

1414 S Chatsworth PK

Phone 352 212 0846

Street

Lecanto

City

FL 34461

State

Email j.haskins@fla.gov

*Speaking:

For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? FDVA

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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***Required**



618646

CRC ACTION

Commissioner .
Comm: FAV .
11/30/2017 .
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CRC Amendment (with title amendment)

Delete lines 20 - 22
and insert:
Affairs and prescribe its duties. The head of the
department is the governor and cabinet.

===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete lines 5 - 8



618646

11 and insert:

12 prescribe its duties by general law; and to specify
13 that the head of the department is the Governor and
14 Cabinet.

**Constitution Revision Commission
Executive Committee
Proposal Analysis**

(This document is based on the provisions contained in the proposal as of the latest date listed below.)

Proposal #: P 9

Relating to: EXECUTIVE, Department of Veterans' Affairs

Introducer(s): Commissioner Timmann

Article/Section affected: Article IV, section 11

Date: November 24, 2017

REFERENCE	ACTION
1. <u>EX</u>	<u>Pre-meeting</u>

I. SUMMARY:

Proposal 9 revises Article IV, section 11 of the Florida Constitution to require, rather than authorize, the Legislature to provide for the Department of Veterans' Affairs and prescribe its duties by general law. The proposal provides that the Florida Department of Veterans' Affairs (FDVA) is within the executive branch and the head of FDVA is the Governor and Cabinet. Additionally, Proposal 9 provides that the Governor and Cabinet appoint the executive director of FDVA.

II. SUBSTANTIVE ANALYSIS

A. PRESENT SITUATION:

Executive Departments

Article IV, section 6 of the Florida Constitution establishes a limitation of no more than 25 executive departments, exclusive of those provided for or authorized in the Constitution. Each department must be placed under the supervision of the Governor, the Lieutenant Governor, the Governor and Cabinet, a Cabinet member, or an officer or board appointed by the Governor. Six executive departments are specifically authorized by or provided in the Florida Constitution:

- Department of Veterans Affairs;¹
- Department of Elderly Affairs;²
- Department of Military Affairs;³

¹ Article IV, s. 11, FLA. CONST.

² Article IV, s. 12, FLA. CONST.

³ Article I, s. 18, FLA. CONST.

- Department of Law Enforcement;⁴
- Department of Revenue;⁵ and
- Department of Health.⁶

Florida Department of Veterans' Affairs

In 1988, state services for veterans were provided by three state agencies: the Division of Veterans Affairs within the Department of Administration, the Veterans' Education and Training Section of the Department of Education; and the Commission on Veterans Affairs assigned to the Executive Office of the Governor. The Florida Legislature sought to consolidate veterans' services within a single department. There were then 25 executive departments, and, in accordance with the limitation provided in Article IV, section 6, the Legislature determined it could not create any additional departments through general law.⁷

Subsequently, the Florida Legislature placed a constitutional amendment on the ballot proposing the creation of Article IV, section 11 of the Florida Constitution.⁸ This section provided the Legislature with the authority to create by general law a Department of Veterans Affairs, to which the 25 department limitation would not apply.⁹ The constitutional amendment appeared on the General Election ballot on November 8, 1988, and was approved by Florida voters with 69% of the vote.¹⁰

Section 20.37, F.S., establishes FDVA and designates the Governor and Cabinet as the head of FDVA. Section 20.37, F.S., also provides that the executive director shall be appointed by the Governor with the approval of three members of the Cabinet and subject to confirmation by the Senate. Responsibilities and duties of FDVA are provided in ch. 292, F.S.¹¹

FDVA provides advocacy and assistance to former, present, and future members of the Armed Forces of the United States and their dependents in preparing claims for securing compensation, hospitalization, career training, and other benefits available in connection with their service.¹² Additionally, FDVA operates the Robert H. Jenkins, Jr. State Veterans' Domiciliary Home, which assists eligible veterans who are not in need of hospitalization

⁴ Article IV, s. 4, FLA. CONST.

⁵ Article X, s. 28, FLA. CONST.

⁶ Article X, s. 29, FLA. CONST.

⁷ The Florida House of Representatives Final Staff Analysis & Economic Impact Statement, CS/HJR 290, House Committee on Judiciary, August 15, 1988. *See also Agency for Health Care Administration v. Associated Industries*, 678 So. 2d 1239 (Fla. 1996).

⁸ CS/HJR 290 (1988).

⁹ The Florida House of Representatives Final Staff Analysis & Economic Impact Statement, CS/HJR 290, House Committee on Judiciary, August 15, 1988.

¹⁰ Florida Department of State, Division of Elections, <http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=10&seqnum=54> (last visited 10/3/2017).

¹¹ *See also* chs. 295 and 296, F.S.

¹² Section 292.05(1), F.S.

or nursing home care,¹³ and six state veterans' nursing homes, which provide skilled nursing home care to eligible veterans.¹⁴

B. EFFECT OF PROPOSED CHANGES:

Proposal 9 revises Article IV, section 11 of the Florida Constitution to require, rather than authorize, the Legislature to provide for FDVA and prescribe its duties by general law. The proposal provides that FDVA is within the executive branch and the head of FDVA is the Governor and Cabinet, consistent with s. 20.37, F.S. Additionally, Proposal 9 provides that the Governor and Cabinet appoint the executive director of FDVA.

Proposal 9 also includes a technical revision to the name of FDVA, consistent with s. 20.37, F.S. and ch. 292, F.S.

C. FISCAL IMPACT:

None.

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

Proposal 9 provides that the Governor and Cabinet appoint the executive director of FDVA. Section 20.37, F.S., provides that the Governor appoints the executive director with the approval of three members of the Cabinet and subject to confirmation by the Senate. In cases of potential conflict between constitutional and statutory provisions, the Constitution prevails.

¹³ Part I, ch. 296, F.S.

¹⁴ Part II, ch. 296, F.S.

By Commissioner Thurlow-Lippisch

thurlowlj-00051-17

201748__

1 A proposal to amend
 2 Section 9 of Article IV of the State Constitution to
 3 provide that the Fish and Wildlife Conservation
 4 Commission shall exercise the regulatory and executive
 5 powers of the state with respect to habitats,
 6 including wildlife corridors.
 7
 8 Be It Proposed by the Constitution Revision Commission of
 9 Florida:
 10
 11 Section 9 of Article IV of the State Constitution is
 12 amended to read:
 13 ARTICLE IV
 14 EXECUTIVE
 15 SECTION 9. Fish and wildlife conservation commission.—There
 16 shall be a fish and wildlife conservation commission, composed
 17 of seven members appointed by the governor, subject to
 18 confirmation by the senate for staggered terms of five years.
 19 The commission shall exercise the regulatory and executive
 20 powers of the state with respect to wild animal life, ~~and~~ fresh
 21 water aquatic life, and habitats, including wildlife corridors,
 22 and shall also exercise regulatory and executive powers of the
 23 state with respect to marine life, except that all license fees
 24 for taking wild animal life, fresh water aquatic life, and
 25 marine life and penalties for violating regulations of the
 26 commission shall be prescribed by general law. The commission
 27 shall establish procedures to ensure adequate due process in the
 28 exercise of its regulatory and executive functions. The
 29 legislature may enact laws in aid of the commission, not
 30 inconsistent with this section, except that there shall be no
 31 special law or general law of local application pertaining to
 32 hunting or fishing. The commission's exercise of executive

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

thurlowlj-00051-17

201748__

33 powers in the area of planning, budgeting, personnel management,
 34 and purchasing shall be as provided by law. Revenue derived from
 35 license fees for the taking of wild animal life and fresh water
 36 aquatic life shall be appropriated to the commission by the
 37 legislature for the purposes of management, protection, and
 38 conservation of wild animal life and fresh water aquatic life.
 39 Revenue derived from license fees relating to marine life shall
 40 be appropriated by the legislature for the purposes of
 41 management, protection, and conservation of marine life as
 42 provided by law. The commission shall not be a unit of any other
 43 state agency and shall have its own staff, which includes
 44 management, research, and enforcement. Unless provided by
 45 general law, the commission shall have no authority to regulate
 46 matters relating to air and water pollution.

Page 2 of 2

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CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

11/28/17

Meeting Date

48

Proposal Number (if applicable)

*Topic #48 Wildlife Corridors

Amendment Barcode (if applicable)

*Name Carl Veauy

Address 3705 SE 3rd Pl

Phone 239 549 7265

Street Cape Coral 33904
City State Zip

Email

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? _____

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

2026 proposal to make the FWC to make

habitat for wildlife
included in the
constitution

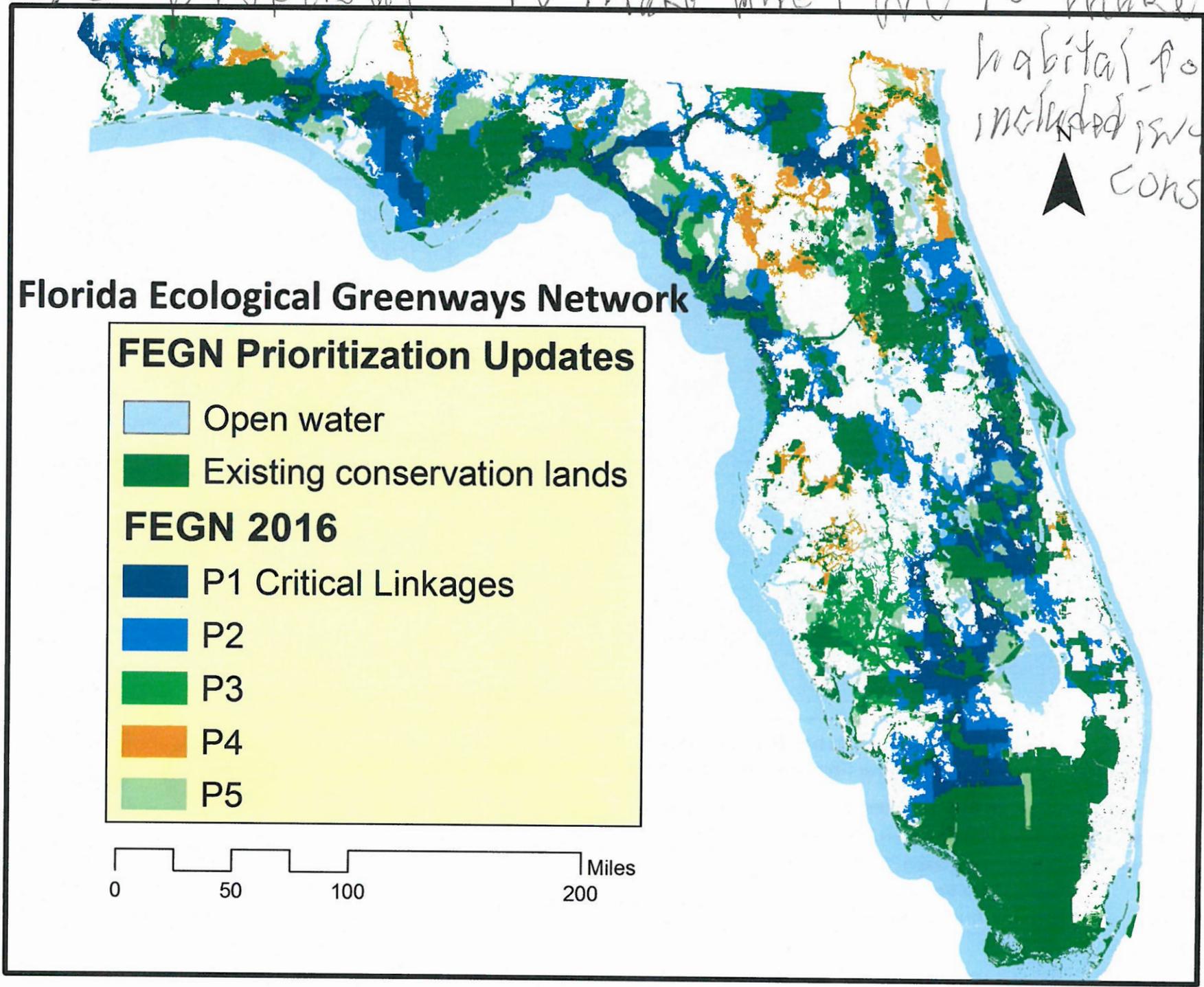
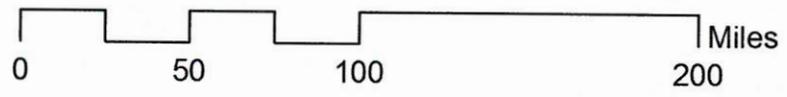
Florida Ecological Greenways Network

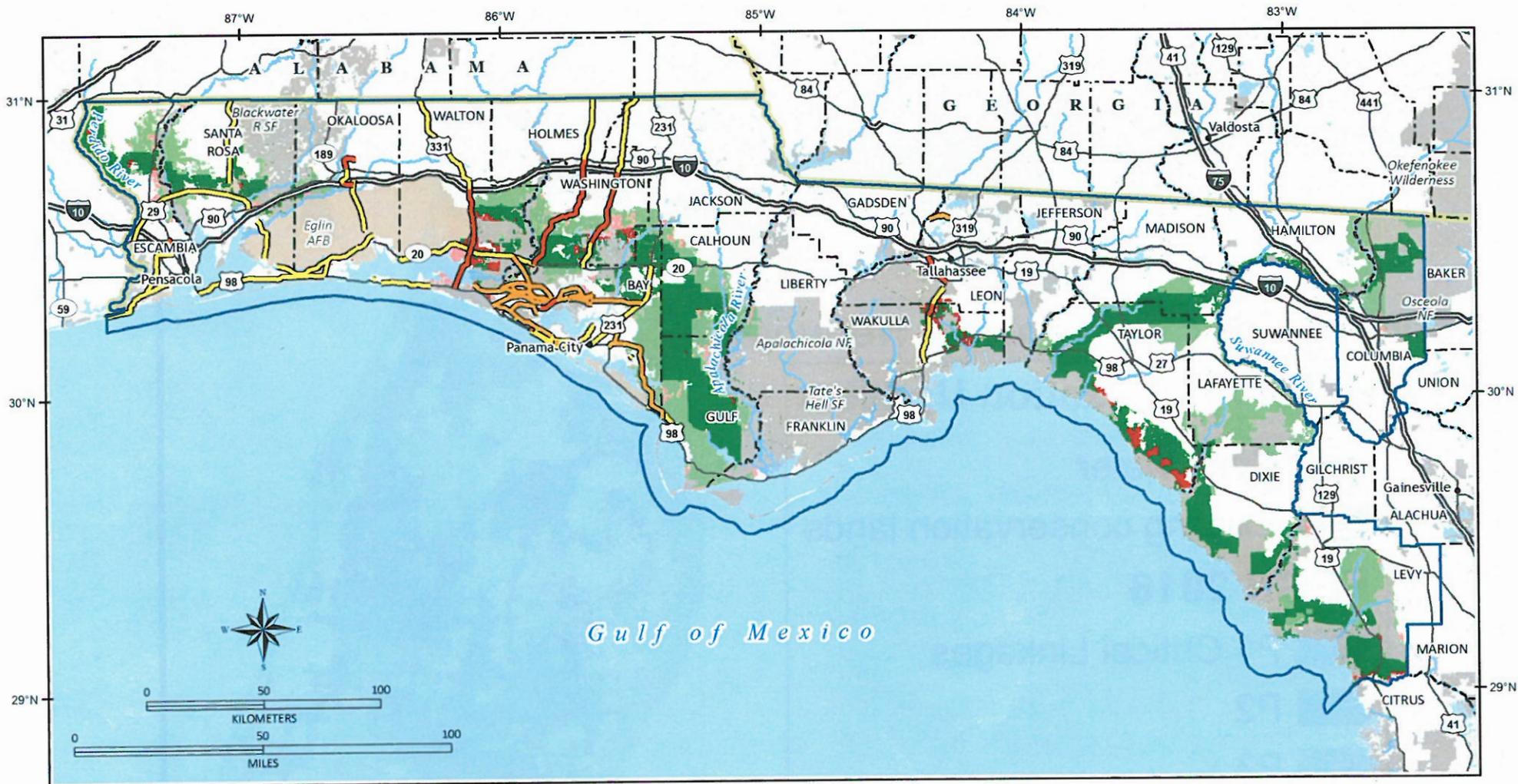
FEGN Prioritization Updates

-  Open water
-  Existing conservation lands

FEGN 2016

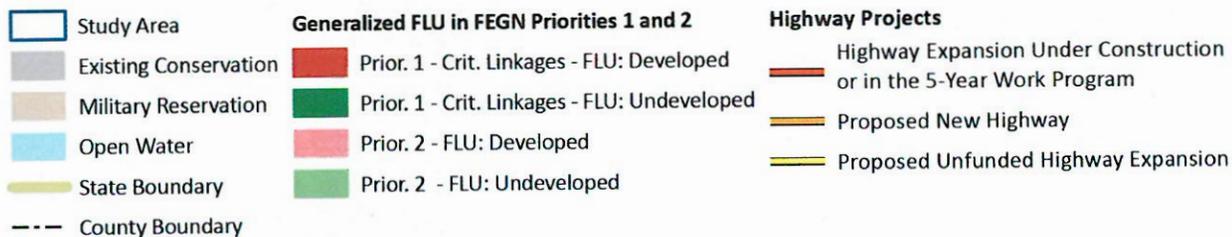
-  P1 Critical Linkages
-  P2
-  P3
-  P4
-  P5





Florida Wildlife Corridor Conservation Focal Areas

Generalized Future Land Use in Florida Ecological Greenways Network Priorities 1 and 2 With Highway Projects



Date: December 2015. Data: City of Blountstown, City of Panama City, Bay County, Calhoun County, Dixie County, Environmental Systems Research Institute, Escambia County, Florida Department of Community Affairs, Florida Department of Transportation, Florida Natural Areas Inventory, Gadsden County, Jackson County, Jefferson County, Lafayette County, Leon County, Liberty County, Madison County, Okaloosa County, Santa Rosa County, Taylor County, UF Center for Landscape Conservation Planning, U.S. Census Bureau, U.S. Geological Survey, Wakulla County, Walton County, Washington County. Projection: Mercator

CONSTITUTION REVISION COMMISSION
APPEARANCE RECORD

(Deliver completed form to Commission staff)

11/28/17
Meeting Date

Proposal Number (if applicable)

*Topic Support Prop 48
*Name Kent Wimmer
Address 1294 Avondale Way
Street
Tallahassee FL 32317
City State Zip

Amendment Barcode (if applicable)

Phone 850-528-5261
Email KWimmer@defenders.org

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Defenders of Wildlife

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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***Required**

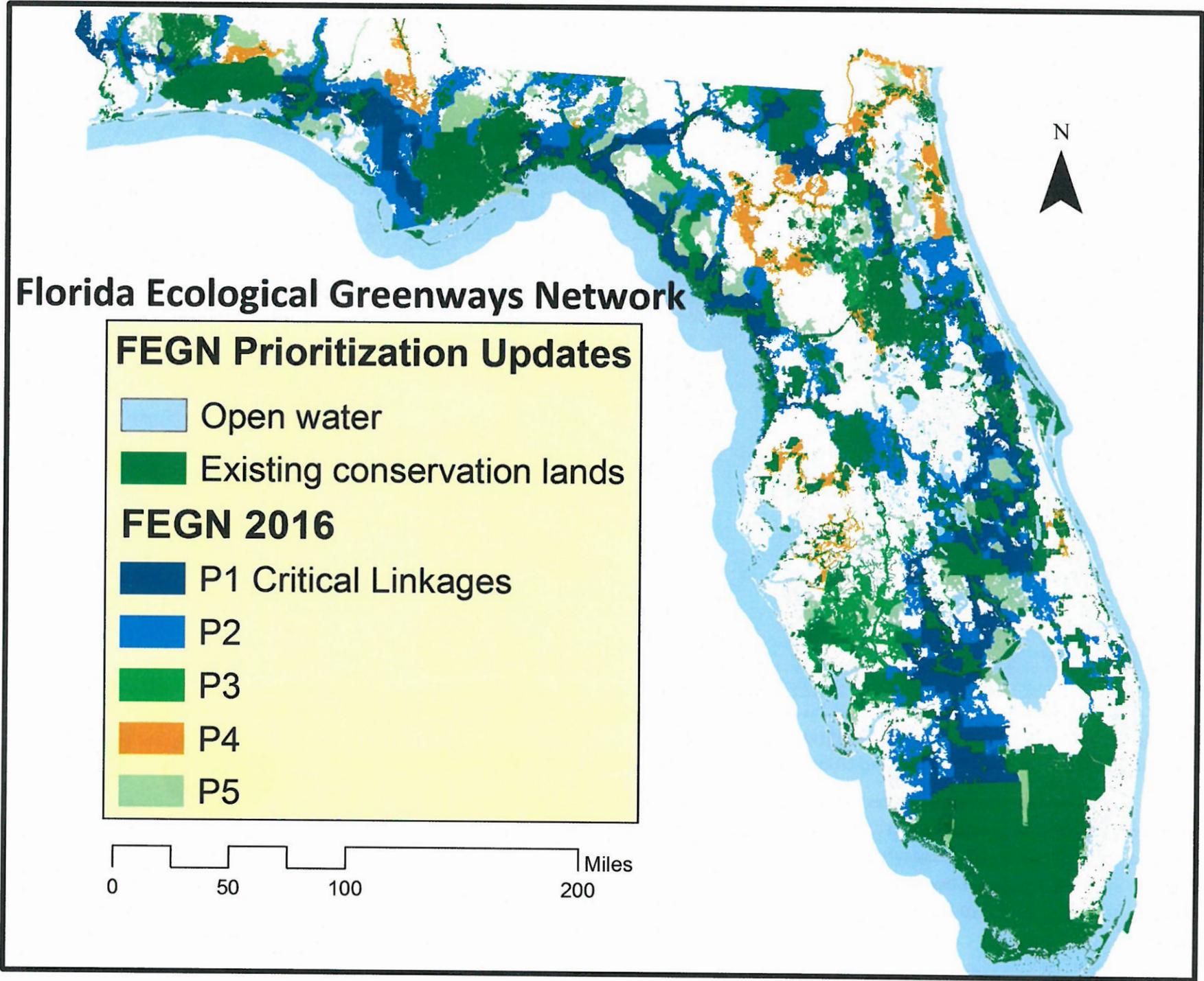
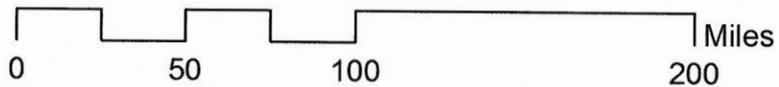
Florida Ecological Greenways Network

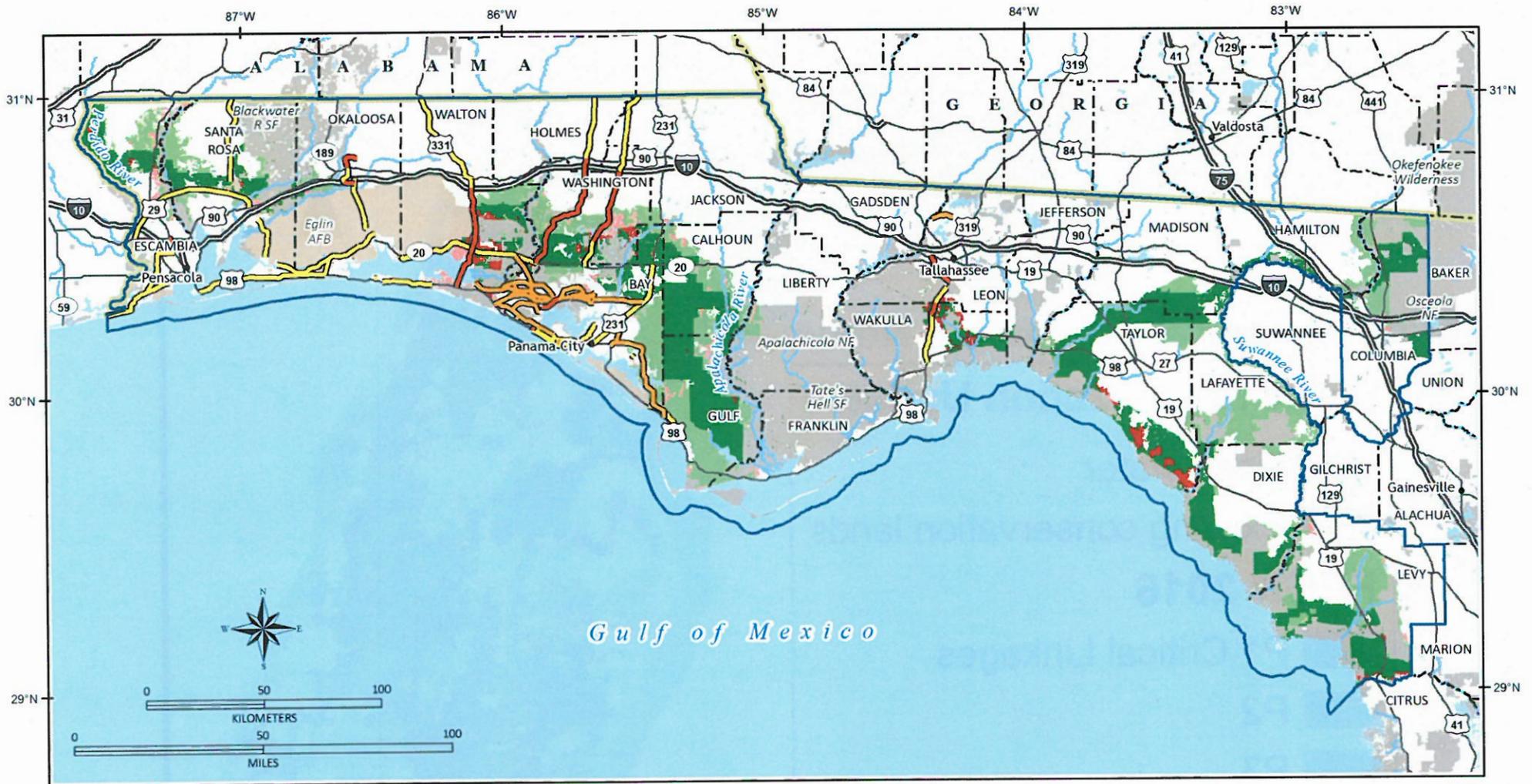
FEGN Prioritization Updates

- Open water
- Existing conservation lands

FEGN 2016

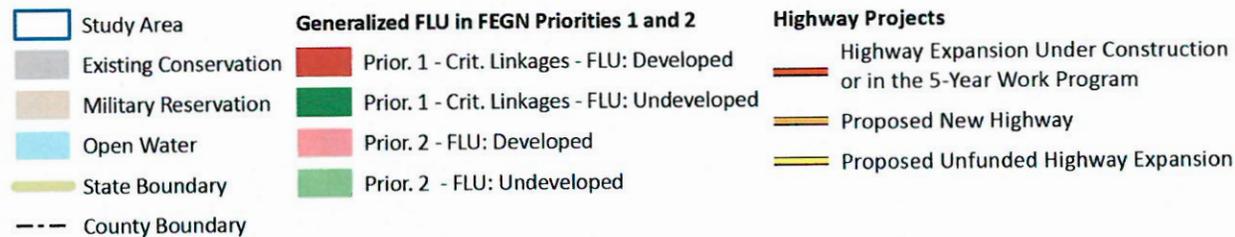
- P1 Critical Linkages
- P2
- P3
- P4
- P5





Florida Wildlife Corridor Conservation Focal Areas

Generalized Future Land Use in Florida Ecological Greenways Network Priorities 1 and 2 With Highway Projects



Date: December 2015. Data: City of Blountstown, City of Panama City, Bay County, Calhoun County, Dixie County, Environmental Systems Research Institute, Escambia County, Florida Department of Community Affairs, Florida Department of Transportation, Florida Natural Areas Inventory, Gadsden County, Jackson County, Jefferson County, Lafayette County, Leon County, Liberty County, Madison County, Okaloosa County, Santa Rosa County, Taylor County, UF Center for Landscape Conservation Planning, U.S. Census Bureau, U.S. Geological Survey, Wakulla County, Walton County, Washington County. Projection: Mercator

CONSTITUTION REVISION COMMISSION

APPEARANCE RECORD

(Deliver completed form to Commission staff)

28
Nov. 1 2017

Meeting Date

48

Proposal Number (if applicable)

*Topic Wild Life Habitat Connectivity
Corridors

Amendment Barcode (if applicable)

*Name MANLEY Fuller

Address P O Box 6870

Phone 850-567-7129

Street

Tallahassee

Email _____

City

State

Zip

*Speaking: For Against Information Only

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Are you representing someone other than yourself? Yes No

If yes, who? Florida Wildlife Federation

Are you a registered lobbyist? Yes No

Are you an elected official or judge? Yes No

While the Commission encourages public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

Information submitted on this form is public record.

*Required

By Commissioner Lee

leet-00084-17

201768__

A proposal to amend

Section 4 of Article IV of the State Constitution to revise the duties and responsibilities of the Chief Financial Officer.

Be It Proposed by the Constitution Revision Commission of Florida:

Section 4 of Article IV of the State Constitution is amended to read:

ARTICLE IV
EXECUTIVE

SECTION 4. Cabinet.—

(a) There shall be a cabinet composed of an attorney general, a chief financial officer, and a commissioner of agriculture. In addition to the powers and duties specified herein, they shall exercise such powers and perform such duties as may be prescribed by law. In the event of a tie vote of the governor and cabinet, the side on which the governor voted shall be deemed to prevail.

(b) The attorney general shall be the chief state legal officer. There is created in the office of the attorney general the position of statewide prosecutor. The statewide prosecutor shall have concurrent jurisdiction with the state attorneys to prosecute violations of criminal laws occurring or having occurred, in two or more judicial circuits as part of a related transaction, or when any such offense is affecting or has affected two or more judicial circuits as provided by general law. The statewide prosecutor shall be appointed by the attorney general from not less than three persons nominated by the judicial nominating commission for the supreme court, or as otherwise provided by general law.

Page 1 of 3

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leet-00084-17

201768__

(c) The chief financial officer shall serve as the chief fiscal officer of the state, ~~and shall:~~

(1) Settle and approve accounts against the state; ~~and shall~~

(2) Keep all state funds and securities;

(3) Participate as a principal in consensus economic, demographic, and revenue estimating conferences; and

(4) Review and certify state contracts proposed by or on behalf of any state agency, entity, or officer of the executive branch as defined by general law, which require a payment or aggregate payments in excess of ten million dollars from funds appropriated to the state agency, entity, or officer before the execution of any such contract. The chief financial officer shall ensure that such a contract complies with state law as to its procurement and content and that any payments required to be made by the state agency, entity, or officer under the contract in any fiscal year do not exceed the amount appropriated for that fiscal year or the amount authorized by law for the purpose of the contract. The ten-million dollar threshold shall be adjusted by general law every four years to reflect the rate of inflation or deflation as indicated in the Consumer Price Index for All Urban Consumers, U.S. City Average, All Items, or a successor index as calculated by the United States Department of Labor, Bureau of Labor Statistics, or its successor agency.

(d) The commissioner of agriculture shall have supervision of matters pertaining to agriculture except as otherwise provided by law.

(e) The governor as chair, the chief financial officer, and the attorney general shall constitute the state board of

Page 2 of 3

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201768_

62 administration, which shall succeed to all the power, control,
63 and authority of the state board of administration established
64 pursuant to Article IX, Section 16 of the Constitution of 1885,
65 and which shall continue as a body at least for the life of
66 Article XII, Section 9(c).

67 (f) The governor as chair, the chief financial officer, the
68 attorney general, and the commissioner of agriculture shall
69 constitute the trustees of the internal improvement trust fund
70 and the land acquisition trust fund as provided by law.

71 (g) The governor as chair, the chief financial officer, the
72 attorney general, and the commissioner of agriculture shall
73 constitute the agency head of the Department of Law Enforcement.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Chief Financial Officer

The CFO is an elected constitutional Cabinet member.¹ The CFO serves as the chief fiscal officer of the state and is responsible for settling and approving accounts against the state and keeping all state funds and securities.² Such responsibilities include, but are not limited to, auditing and adjusting accounts of officers and those indebted to the state,³ paying state employee salaries,⁴ and reporting all disbursements of funds administered by the CFO.⁵ The CFO is the head of the Department of Financial Services (DFS), which executes the duties of the CFO.⁶

State Procurement of Contracts for Personal Property and Services

Chapter 287, F.S., regulates state agency⁷ procurement of personal property and services. The Department of Management Services (DMS) is responsible for overseeing state purchasing activity, including professional and construction services, as well as commodities needed to support agency activities, such as office supplies, vehicles, and information technology.⁸ DMS establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state's buying power.⁹

Depending on the cost and characteristics of the needed goods or services, agencies may utilize a variety of procurement methods, which include:

- Single source contracts, which are used when an agency determines that only one vendor is available to provide a commodity or service at the time of purchase;
- Invitations to bid, which are used when an agency determines that standard services or goods will meet needs, wide competition is available, and the vendor's experience will not greatly influence the agency's results;
- Requests for proposal, which are used when the procurement requirements allow for consideration of various solutions and the agency believes more than two or three vendors exist who can provide the required goods or services; and

¹ Article IV, s. 4, FLA. CONST.

² Article IV, s. 4(c), FLA. CONST. and s. 17.001, F.S.

³ Section 17.04, F.S.

⁴ See s. 17.09, F.S.

⁵ Section 17.11, F.S.

⁶ See s. 20.121, F.S.

⁷ Section 287.012(1), F.S., defines agency as "any of the various state officers, departments, boards, commissions, divisions, bureaus, and councils and any other unit of organization, however designated, of the executive branch of state government. 'Agency' does not include the university and college boards of trustees or the state universities and colleges."

⁸ Sections 287.032 and 287.042, F.S.

⁹ *Id.*

- Invitations to negotiate, which are used when negotiations are determined to be necessary obtain the best value and involve a request for complex, customized, mission-critical services.¹⁰

Section 287.136, F.S., requires the CFO to perform audits of executed contract documents and contract manager's records to ensure that adequate internal controls are in place for complying with the terms and conditions of the contract and for the validation and receipt of goods and services. The CFO must discuss the audit and potential findings with the official whose office is subject to the audit and the final audit must be submitted to the agency head.¹¹ The agency head must submit a written statement of explanation or rebuttal concerning audit findings requiring corrective action within 30 days after receipt of the final audit report.¹²

Consensus Estimating Conferences

Sections 216.133-138, F.S., establish the consensus estimating conferences that provide official data, forecasts, and estimates for the state's planning and budgeting functions and outline consensus estimating conference procedures. Consensus estimating conferences are within the legislative branch.¹³ The principals of each conference consist of professional staff from the Executive Office of the Governor, the Office of Economic and Demographic Research, the Florida Senate, and the Florida House of Representatives.¹⁴ Official information developed by each estimating conference is determined by unanimous consent of all the principals.¹⁵ Consensus estimating conferences include:

- Economic Estimating Conference;
- Demographic Estimating Conference;
- Revenue Estimating Conference;
- Education Estimating Conference;
- Criminal Justice Estimating Conference;
- Social Services Estimating Conference;
- Workforce Estimating Conference;
- Early Learning Programs Estimating Conference;
- Self-Insurance Estimating Conference; and
- Florida Retirement System Actuarial Assumption Conference.¹⁶

B. EFFECT OF PROPOSED CHANGES:

Proposal 68 revises Article IV, section 4(c) of the Florida Constitution to expand the responsibilities of the CFO. The proposal provides that the CFO participates as a principal in consensus economic, demographic, and revenue estimating conferences.

¹⁰ Section 287.057, F.S.

¹¹ Section 287.136(1), F.S.

¹² Section 287.136(2), F.S.

¹³ Section 216.134(4), F.S.

¹⁴ Section 216.134(4)(c), F.S.

¹⁵ Sections 216.133(3) and 216.134(1), F.S.

¹⁶ Section 216.136, F.S.

Additionally, the proposal requires the CFO to review and certify contracts proposed by or on behalf of any state agency, entity, or officer of the executive branch, if the contract requires payment of more than \$10 million from funds appropriated to the agency, entity, or officer. The review and certification must occur before the execution of the contract. The review must ensure that the contract complies with state law regarding its procurement and content, and that any payments do not exceed that amount appropriated for the fiscal year or the amount authorized for the contract. Every four years, the dollar threshold required for CFO review and certification must be adjusted by general law to reflect the rate of inflation or deflation of the Consumer Price Index.

C. FISCAL IMPACT:

The proposal may have a significant fiscal impact due to additional staff required to perform contract review and certification tasks within DFS as a result of the additional workload and potential substantive regulatory area knowledge requirements.¹⁷ Additionally, information provided by DFS indicates that information technology (IT) modifications are necessary to facilitate the tracking, delegation, and codification of contract review and audit results. Proposed options for IT modifications may be in excess of \$1.5 million with licensing and maintenance costs of approximately \$300,000 annually thereafter.¹⁸

III. Additional Information:

A. Statement of Changes:

(Summarizing differences between the current version and the prior version of the proposal.)

None.

B. Amendments:

None.

C. Technical Deficiencies:

None.

D. Related Issues:

Article II, section 3 of the Florida Constitution provides:

The powers of the state government shall be divided into legislative, executive and judicial branches. No person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.

¹⁷ Department of Financial Services, Analysis of Senate Joint Resolution 792 (2017), p. 2-3, on file with Executive Committee staff.

¹⁸ *Id.* at p. 3, 5-6.

The separation of powers doctrine encompasses two fundamental prohibitions. The first is that no branch may encroach upon the powers of another. The second is that no branch may delegate to another branch its constitutionally assigned power.¹⁹ Legislative power involves the exercise of policy-related discretion over the content of law.²⁰ Under the nondelegation doctrine the Legislature may not delegate the power to enact a law or the right to exercise unrestricted discretion in applying the law.²¹ Further, the nondelegation doctrine precludes the Legislature from delegating its powers absent ascertainable minimal standards and guidelines.²² Sufficient legislative standards are necessary to ensure that decisions are judicially reviewable and not an exercise of unrestricted discretion.²³ It is permissible to delegate the task of implementing policy to another body only when adequate safeguards are in place.²⁴ The Legislature is required to “clearly define the power delegated” to guide administrative agencies in performance of their duties.²⁵

Proposal 68 permits the CFO to audit and certify certain state agency, entity, or officer contracts before they are executed. The responsibilities provided in the proposal may be relevant to separation of powers issues if the courts determine that the proposal does not provide legislative standards or thresholds specifying the CFO’s obligations and parameters for contract review and certification, or refusal to certify. The separation of powers doctrine may be relevant in constitutional amendments, as the Florida Supreme Court has previously considered whether a proposed constitutional amendment would empower the Department of Health “to make the types of primary policy decisions that are prohibited under the doctrine of non-delegation of legislative power.”²⁶

¹⁹ *Chiles v. Children A, B, C, D, E, & F*, 589 So. 2d 260, 264 (Fla. 1991).

²⁰ *State ex rel. Taylor v. City of Tallahassee*, 177 So. 719, 720-21 (Fla. 1937).

²¹ *Sims v. State*, 754 So. 2d 657, 668 (Fla. 2000).

²² *Dep’t of Bus. Reg., Div. of Alcoholic Beverages & Tobacco v. Jones*, 474 So. 2d 359, 361 (Fla. 1st DCA 1985).

²³ *Florida State Bd. of Architecture v. Wasserman*, 377 So. 2d 653 (Fla. 1979).

²⁴ *Askew v. Cross Key Waterways*, 372 So. 2d 913 (Fla. 1978).

²⁵ *Florida Dep’t of State, Div. of Elections v. Martin*, 916 So. 2d 763, 770 (Fla. 2005); *Avatar Dev. Corp. v. State*, 723 So. 2d 199, 205 (Fla. 1998).

²⁶ *Advisory Opinion to the Attorney General re Use of Marijuana for Debilitating Medical Conditions*, 181 So. 3d 471, 478 (Fla. 2015).